

PT 95-16
Tax Type: PROPERTY TAX
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
ADMINISTRATIVE HEARINGS DIVISION
SPRINGFIELD, ILLINOIS

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PROCTOR HEALTH CARE FOUNDATION      )   Docket No.(s)  92-72-110  
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      Applicant                      )   PI No.(s) 14-21-126-014  
                                     )   (Peoria County)  
                                     )  
      v.                             )  
                                     )  
THE DEPARTMENT OF REVENUE             )   George H. Nafziger  
OF THE STATE OF ILLINOIS             )   Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES Mr. Timothy L. Bertschy and Ms. Lisa A. LaConte,
attorneys for Applicant, appeared on behalf of Applicant.

SYNOPSIS A hearing was held in this matter on August 10, 1994. The parcel here in issue is improved with three masonry medical office buildings. The southerly most building of the three will be identified as Building No. 2. It was built in 1978, and has two stories and a basement. The center building of the three will be identified as Building No. 1. It was built in 1974, and also has two stories and a basement. The northerly building of the three on the parcel here in issue will be identified as Building No. 3. It was built in 1983, and consists of 4 stories and a basement. The north wall of Building No. 3 is directly connected to the Proctor Community Hospital Building. The foregoing identifications are those used by Robert W. McQuellon, real estate appraiser in Department's Exhibit 2D, and also the Peoria County Board of Review Record Card (Department's Exhibit 2A).

The southerly building, being Building No. 2, is connected to Building No. 1, located in the center, which is connected to Building No. 3, on the

North. The Department's decision in this matter, dated August 26, 1993, exempted the parcel here in issue and various portions of the three buildings located thereon. However, Applicant's request for hearing dated September 14, 1993, only requested a hearing concerning the New Horizons Child Care Center, (hereinafter referred to as "Child Care Center"), operated by Proctor Community Hospital, and located in the basement and on the first floor of Building No. 2, and Proctor Hospital Employees Credit Union, (hereinafter referred to as "Credit Union"), located in 672 square feet of space on the first floor of Building No. 1.

Is Applicant a charitable organization? Is Proctor Community Hospital a charitable organization? Is Credit Union a charitable organization? Did Applicant own the parcel here in issue and the buildings thereon, during the 1992 assessment year? Did Applicant use the areas occupied by the Child Care Center and Credit Union for charitable purposes during 1992? Following the submission of all the evidence and a review of the record, it is determined that Applicant is a charitable organization, and that Credit Union is not a charitable organization. It is further determined that Applicant owned the parcel here in issue and the buildings thereon, during all of 1992. Finally, it is determined that the area of Building No. 2, occupied by Child Care Center, was used for primarily charitable purposes during the 1992 assessment year, and that the area of the first floor of Building No. 1, occupied by the Credit Union, was not used for charitable purposes during the 1992 assessment year.

FINDINGS OF FACT The Department's position in this matter was established by the admission in evidence of Department's Exhibits 1 through 6B.

The persons who were present at the hearing and who testified on behalf of Applicant were: Mr. Todd Baker, general manager of Belcrest Services, Ltd.; Mr. David M. Underwood, secretary/treasurer of Applicant;

Mr. Michael A. Franks, vice-president for Human Resources for Proctor Community Hospital; Ms. Bonnie Jo Bucher, director of the Child Care Center; Ms. Lori Ann DeFreese, a registered nurse with Proctor Community Hospital; and Ms. Janet Milloy, a central supply clerk for Proctor Community Hospital.

On January 21, 1993, the Peoria County Board of Review forwarded a Corrected Application for Property Tax Exemption To Board of Review, concerning the parcel here in issue and the buildings thereon, for the 1992 assessment year to the Illinois Department of Revenue (Department's Exhibit 2). On August 26, 1993, the Department of Revenue issued its decision exempting this parcel here in issue, along with various portions of the buildings located thereon (Department's Exhibit 3). On September 14, 1993, Mr. David M. Underwood, secretary/treasurer of Applicant, requested a formal hearing, concerning the Department's denial of exemption of the areas of the buildings occupied by the Day Care Center and the Credit Union for the 1992 assessment year. The hearing held on August 10, 1994, was held pursuant to that request.

Applicant acquired this parcel and the buildings thereon, from Proctor Health Care, Incorporated, on May 24, 1983. I take Administrative Notice of the fact that since the Department, by its decision dated August 26, 1993, exempted this parcel and various portions of the buildings thereon, that the Department has determined that Applicant and Proctor Community Hospital are charitable organizations.

Credit Union is a credit union chartered on September 27, 1956, pursuant to "The Credit Union Act", approved June 16, 1953. Credit Union, consequently, has members, is authorized to issue stock with a par value of \$25.00 per share, and to declare dividends from its profits. Credit Union, during 1992, made loans, charged interest on its loans, paid dividends to its stockholders, and generally acted in a manner similar to other for-

profit financial institutions. However, the Credit Union does have one competitive advantage over other financial institutions in that loan payments are handled by payroll deduction. In this way, should an employee be short of cash and trying to decide which of his or her debts to pay, his or her credit union loan, like his or her federal and state income taxes, will be withheld from his or her paycheck. I therefore find that the Credit Union, like other banks and financial institutions, is a for-profit business enterprise, and not a charitable organization.

In about 1980, in view of the nationwide shortage of registered nurses and the hospital employment situation in Peoria, Proctor Community Hospital explored the idea of operating its own day care center for the children of its employees, and related entities. After receiving a favorable response from several employee surveys, the Child Care Center opened during October 1982. The Child Care Center is operated by Proctor Community Hospital, and is located in the basement and on the first floor of Building No. 2, the southerly building on the parcel here in issue. This building is physically connected with the main Proctor Community Hospital building, by going through the other two buildings on this parcel. During 1992, children were enrolled in the Child Care Center year around, from ages six weeks to eight years. During the summer, the Child Care Center offered programs for children ages six weeks to twelve years. During 1992, the Child Care Center operated from 6 A.M. to midnight, Monday through Friday, and from 6 A.M. to 6 P.M. Saturdays, Sundays, and holidays. The Child Care Center billed fees to employees either hourly or daily, as well as weekly, so that if an employee's hours changed, or if they were called in for an emergency, the Child Care Center was there available for the child, and the parent was only charged for the time used. The Child Care Center only accepted the children of Proctor Community Hospital employees, employees of its affiliates and medical staff, and independent contractors who worked

full time in the hospital. During 1992, the Child Care Center was licensed for 139 children, but during the entire year, the Child Care Center actually served approximately 255 children.

1. Based on the foregoing, I find that Applicant is a charitable organization.

2. I also find that Proctor Community Hospital is a charitable organization.

3. I find that the Credit Union is a separate organization chartered as a credit union, and operated as a for-profit financial institution, and not a charitable organization.

4. Applicant, I find, owned the parcel here in issue and the three buildings located thereon, during the 1992 assessment year.

5. The area occupied by the Child Care Center which was operated by Proctor Community Hospital, I find, was used primarily for purposes which were reasonably necessary to the efficient operation of Proctor Community Hospital.

6. The area occupied by the Credit Union, I find, was used by a separate entity chartered as a financial institution for the purposes of receiving and holding deposits, issuing stock, paying dividends on the stock, and making loans, and not for charitable purposes.

CONCLUSIONS OF LAW Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.7 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in

this or any other state of the United States,...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;...."

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. *People ex rel. Goodman v. University of Illinois Foundation*, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. *MacMurray College v. Wright*, 38 Ill.2d 272 (1967).

I conclude, based on the documents and testimony in the record, that Applicant and Proctor Community Hospital are charitable organizations, and that Applicant owned the parcel here in issue and the buildings thereon, during all of the 1992 assessment year.

Concerning the area occupied by the Child Care Center, in *Memorial Child Care v. Illinois Department of Revenue*, 238 Ill.App.3d 985 (1992), the Court held that an affiliated not-for-profit corporation which operated a child care center for the employees of Memorial Medical Center and its affiliates in Springfield, and which offered the employees of Memorial Medical Center child care services specifically structured to their employment needs, was reasonably necessary to the efficient administration of Memorial Medical Center. In that decision, the Court cited *MacMurray College v. Wright*, 38 Ill.2d 272 (1967), in which the Supreme Court had determined that an exemption will be sustained if it is established that the property is primarily used for purposes which are reasonably necessary for the accomplishment of the exempt objectives or efficient administration of an exempt organization.

In the present case, Child Care Center was operated during the 1992 assessment year, by Proctor Community Hospital for the employees of the hospital, its affiliates, medical staff, and independent contractors. Child Care Center, like Memorial Child Care, offered those employees child care services, specifically structured to their employment needs. I consequently conclude that Child Care Center was reasonably necessary to the efficient administration of Proctor Community Hospital, during the 1992 assessment year.

Concerning the area occupied by the Credit Union, it has previously been found that Credit Union is an entirely separate entity, chartered as a for-profit financial institution. Such an institution by its very nature, I conclude, is not charitable. In addition, the MacMurray College reasoning concerning property which is primarily used for purposes, which are reasonably necessary for the accomplishment of the exempt objectives or efficient administration of an exempt organization, has been cited in *Evangelical Hospital Association v. Novak*, 125 Ill.App.3d 439 (1984), and *Norwegian American Hospital, Inc. v. Department of Revenue*, 210 Ill.App.3d 318 (1991), as well as *Memorial Child Care v. Illinois Department of Revenue*, 238 Ill.App.3d 985 (1992), all of which concerned either the exemption of property owned and used by a charitable organization, or a not-for-profit corporation affiliated with that charitable organization. Credit Union is a separately chartered for-profit financial institution. Clearly, I conclude that the area occupied by Credit Union and used for its purposes, would not qualify for exemption, either pursuant to 35 ILCS 205/19.7 (1992 State Bar Edition) or Article IX, Section 6, of the Illinois Constitution of 1970, cited above.

I therefore recommend referring to the Department's original determination, dated August 26, 1993, (Department's Exhibit 3), that the basement of Building No. 2 where a portion of the Child Care Center is

located, be 100% exempt, and that the first floor of said building where a portion of the Child Care Center is also located, be 79% taxable.

I also recommend that the first floor of Building No. 1, where the Credit Union is located, remain 100% taxable.

Finally, I recommend that the other determinations of taxability and exemption included in said original determination, dated August 26, 1993, remain as originally issued.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge

March , 1995